

# THE QUEER CONSEQUENCES OF THE HAYS CODE

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Irish playwright Oscar Wilde stated in 1889 that “life imitates art far more than art imitates life.” Humans create art to reflect and comment on the state of the world, and in turn, as their fellow humans consume the art, this art impacts their beliefs and actions. As imperfect humans who have gone through imperfect experiences, it is simply impossible to produce art without implicit bias; to not have biases, for better or for worse, is to not be human. In those cases when certain biases are made law, the true impact of human prejudice can be made evident and resonate through art even past the lifetime of these laws. One such instance of institutionalized censorship in art was Hollywood’s 1930 Hays Code, a set of regulations on content intended to improve the moral value of film.

As the film industry developed through the early 20th century, the content of movies was placed under increasing public scrutiny. Films have always been held to a high moral standard due to their ability to more directly place audiences in the depicted situations than any other form of art. This dates back to 1896’s *The Kiss*, a short film<sup>1</sup> depicting a couple exchanging silent sweet talk and ending with a brief peck on the lips. *The Kiss* garnered much public outrage, particularly from religious groups who deemed public displays of even the most casual sexuality immoral (Popova). As films became more sophisticated, the supposedly immoral content in films also began to be seen as more of an immediate issue. Action and horror films such as 1931’s *Frankenstein* were believed to be promoting violence and damaging the minds of younger

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<sup>1</sup> More of a clip, as it’s less than a minute long

viewers while ‘gangster films’ such as 1932’s *Scarface* were criticized for romanticizing a criminal lifestyle (Kolodziejewski). The subject most heavily attacked by those who would support censorship was sexuality. Particularly during the Great Depression, when filmmakers were willing to do all that it took to attract audiences to the theater, films were advertised with explicit sexual imagery and also featured plots laden with innuendo, sex, and, perhaps worst of all, female empowerment. The backlash against such films was immediate. While the so-called “sex films” were originally created with the intent of attracting male audiences, most of the audience was made up of young women inspired by the sexual liberties enjoyed by the actresses in these films. This created concern that sex films were tainting the minds of young women; according to *Variety* magazine in 1931, “women who make up the bulk of the picture audiences are also the majority readers of [tabloids involving scandals]” (Jacobs).

In early Hollywood, there were neither industry nor federal regulations on content; in a response from the vulgar and violent content becoming rampant in films, many cities began to enact censorship boards on films, beginning with Chicago’s Board of Censors, which formed in 1907 and was swiftly followed by Detroit (Benzkofer). Pennsylvania was the first state to enact a state-wide censorship doctrine (“Pennsylvania... censorship laws”). While censorship of the arts may seem intrinsically against the American value of free speech— immortalized in the First Amendment of the Constitution— in the time period these censor boards stifled the film industry, movies were not legally considered art. This decision was made in *Mutual Film Corporation v. Industrial Commission of Ohio*, a 1915 Supreme Court case. Ohio began to censor films distributed and shown within the state<sup>2</sup>, resulting in a lawsuit from film conglomerate Mutual

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<sup>2</sup> The Board of Censors was given legislative power by the state which the complainant argued was a power only the elected General Assembly of the State should have

Film Corp., who argued the state was violating their First Amendment rights<sup>3</sup> by preventing them from showing 2,500 films, resulting in a great loss of profit<sup>4</sup>. The lower court found for Ohio, but Mutual Film Corp. appealed and the case was moved to the Supreme Court of the United States. After reviewing the case, the Supreme Court affirmed the original finding, stating that Ohio's statute was justifiably established as films "may be used for evil, and against that possibility the statute was enacted." They argued the film industry "is a business, pure and simple, originated and conducted for profit" and hence not eligible for the same First Amendment protections as other forms of media<sup>5</sup> (*Mutual Film v. Ohio*). This ruling opened the gates to allow further censorship to be enforced upon the adolescent Hollywood, with the film industry no longer having a defense against the brutal censor boards.

By 1922, the formerly-marveled-at film industry had been cast in a more negative light. Multiple scandals had shaken the film industry and left it under the scrutiny of religious and political groups. This included the alleged rape and homicide of actress Virginia Rappe by fellow actor/director Roscoe Arbuckle, who was ultimately found innocent, but was banned<sup>6</sup> from being hired in films following the trial (King). Such gruesome real events paired with the general backlash against supposedly immoral content placed the film industry in jeopardy of being held in contempt by the public. In an attempt to clean up the industry, several film companies formed an association which would be known as the Motion Picture Producers and Distributors of

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<sup>3</sup> Additionally, Mutual Film argued a violation of the Fourteenth Amendment, which declares that no State can deprive a citizen of the United States of their privileges or fundamental rights; however, this complaint was generally dismissed by the Court

<sup>4</sup> Three main points were argued by the complainant: that (1) the statute unlawfully limited interstate commerce; (2) it violated the freedom of speech and publication guaranteed by both the United States Constitution as well as the State's constitution; and (3) it unlawfully gave legislative power to boards who were not elected

<sup>5</sup> It was additionally argued by the Court that films are simply a retelling of events that can be used for evil, and that they, as a "public spectacle" are no more a means of public expression than a circus or a billboard

<sup>6</sup> Arbuckle's exile from film was determined by William Hays, president of the MPPDA

America (MPPDA), now simply the MPA. The group appointed former Republican politician William Hays as their president. Though he was aware of the overall push for censorship at the time, Hays was initially against censorship and instead enacted a “prim list of cautionary injunctions” on content known as the Don’ts and Be Carefuls (“Hollywood... Production Code”). An agency was constructed to oversee this process, and all filmmakers were technically required to submit their scripts before the movies could be released. However, due to the loose enforcement of the Don’ts and Be Carefuls, the majority of filmmakers chose to simply ignore these rules and bypass the MPPDA.

While Hays was struggling to hold the industry together, a Catholic organization known as the Legion of Decency arose. The Legion of Decency was set upon imposing strict Catholic morals in film. They believed that “motion pictures teach our children more vividly and leave more lasting impressions than the schools,” highlighting the perceived importance of regulating content in films (“Catholics... Film Censorship”). Catholics began to boycott theaters en masse in an attempt to pressure the film industry into inflicting stricter moral regulations on the content included in movies. In the late 1920’s, two members of the Legion of Decency, Daniel Lord<sup>7</sup> and Martin Quigley<sup>8</sup>, drafted a potential censorship code for Hollywood. They proposed the code to William Hays, who agreed to help them make it official, partially in an attempt to avoid the crushing Catholic boycotts (Doherty). Hays wrote an abbreviated version of the Code to present to the rest of the MPPDA, since, according to Lord, the shortened version was “more workable and convenient” (“Hollywood... Production Code”).

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<sup>7</sup> Lord was a Jesuit priest and a prolific writer

<sup>8</sup> Quigley was a Catholic journalist particularly interested in film

Upon hearing this proposition, many filmmakers were initially reluctant to accept the Code, but Hays convinced them it was worth their while as it would help keep the federal government from interfering with the MPPDA due to censorship. In 1930, the Motion Picture Production Code, soon to be known as the Hays Code, was officially published. Due to the economic struggles of the Great Depression, the Code was not, however, strictly enforced until 1934, as filmmakers were generally more interested in attracting a crowd to theaters by any means possible than they were in keeping their creations in line with the Legion's moral standards. The MPPDA's failure to enforce the change they had promised to the Legion of Decency led to a general boycott of movies not only from Catholics, but from secular groups such as women's clubs, as well. In March of 1934, Cardinal Dougherty of Philadelphia called for an all-out boycott of movies, going so far as to claim that it was a sin for a Catholic to view any film in a theater (Simpson).

By the end of 1934, the boycotts had forced Hays into action. The Production Code Administration (also known as the PCA) was formed under the rule of Joseph Breen ("Hollywood... Production Code"). Breen<sup>9</sup>, who was, according to Hays, a "tough Irish Catholic," would rule the industry with an iron fist, scrutinizing all films for any potentially immoral content. By the end of 1934, Hollywood was completely suffocated in the censoring coils of the Hays Code.

## HOMOSEXUALITY AND THE HAYS CODE

The Hays Code emphasized the importance of morality through film. It sorted entertainment into two categories: that which "tends to improve the race" and that which "tends

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<sup>9</sup> Breen was also a known antisemite and collaborated with the Nazi party in Hollywood (Doherty)

to degrade human beings” and “lowers the whole living condition and moral ideas of a race” (Motion Picture Production Code). The Code aimed to eradicate this second class of entertainment through its rigid rules. The subject perhaps most viciously attacked was sexuality in films. In the pre-Code era, sexual content ran rampant in films, with women flaunting their bodies and taking control of their sexuality in an offensive rebellion against the patriarchy. Along with this, a form of sexuality seen as strictly immoral at the time was also becoming present in films: namely, homosexuality.

While it was admittedly a rare occurrence to see queer representation in pre-Code films, its prevalence was certainly notable for the time. The 1914 silent film *A Florida Enchantment* centered around a woman who swallows a strange seed and finds herself the next morning transformed into a man and her fiancé an effeminate man. The couple explores their newfound gender identity and sexuality throughout the course of the film. While it was a comedy, such a plot would be shocking even in this day and age, and the fact that it was produced more than a century ago is quite impressive. Films containing queer undertones were not just accepted; they were sometimes lauded for their content despite the implications. The first film to win the Academy Award for Best Picture was *Wings*, which includes a kiss between the two male main characters (*Wings... Awards*). While these men were not explicitly in love, such a gesture would have been prohibited after the Hays Code.

Homosexuality was banned under the rule “[s]ex perversion or any inference of it is forbidden” (Motion Picture Production Code). After the introduction of the Hays Code, inclusion of queer characters was restricted to queer-coding based on stereotypical traits; for example, the gay ‘sissy,’ an effeminate male stock character, became popular in films to ridicule homosexual

men; a queer man in film would be reduced to “a flouncing twit, the supporting character whose mere presence sparked a snicker” (Doherty). Masculine women, on the other hand, were reduced to cold-hearted, childless businesswomen who needed the right man to cure them of their tomboyishness (a trope that persists in modern times); together, these tropes created a strict moral guideline on gender and sexuality. While it was always a fine line to include or even hint at queerness in films, the Hays Code had been specifically written to allow a loophole in the rules if the forbidden content was explicitly depicted as morally wrong. According to the Code, “The presentation of evil is often essential [and] is not wrong” so long as the evil is not “presented alluringly” and the audience understands without confusion in the end what is evil and what is good, and that evil is morally wrong. This left filmmakers with essentially two options for including queer characters: punishing them for their queerness or depicting them as villains.

The former route was taken to an extreme in *Suddenly Last Summer*. The 1959 film was only allowed through the PCA despite including an explicitly homosexual character because it violently killed off said character in such a way that served to punish him for his homosexuality. His homosexuality is also associated with other character flaws of his such as self-absorption and disregard for others; he uses his female cousin to lure attractive young men to himself, and this ultimately leads to his downfall. Screenwriter Gore Vidal explained that because the film “illustrates the horrors of such a lifestyle,” it “can be considered moral in theme even though it deals with sexual perversion” (“Decoding the Classics...”).

## WHITE ZOMBIE

One of the earliest instances of the latter option of queer villainy is in the 1932 horror film *White Zombie*. *White Zombie* is about a young couple, Neil and Madeline. For their wedding, they stay with the wealthy Charles Beaumont, who has fallen madly in love with Madeline. Knowing he has no hope of organically winning Madeline's affection, Beaumont contacts the local witch doctor, Murder Legendre<sup>10</sup>, for his assistance. Legendre, who has discovered a method of turning humans into mindless zombies, gives Beaumont a serum to turn Madeline into a zombie. With Madeline assumed dead and buried on her wedding day, Beaumont and Legendre retrieve Madeline's body. Beaumont is disheartened by Madeline's lack of humanity and demands Legendre turn her back. Legendre offers Beaumont a drink which, unbeknownst to Beaumont, is laced with the zombie serum. Legendre announces that Beaumont shall never leave him, declaring, "I have taken a fancy to *you*, monsieur!"

Legendre's explicit admission of love for Beaumont is depicted as an aspect of the movie's horror and used to further the concept that Legendre is an immoral and evil man. His decision to turn Beaumont into a zombie is notably given more negative weight than Beaumont's decision to do the same for Madeline for the same reason, purely out of the fact that Beaumont's desires are heterosexual and Legendre's are homosexual. At the conclusion of the film, Beaumont snaps out of his stupor long enough to sacrifice his own life while killing Legendre. Beaumont ends his story as a redeemed man who was simply misguided, while Legendre dies a villain unworthy of life.

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<sup>10</sup> Legendre was depicted by Bela Lugosi, a prominent actor in early horror films who is most well-known for his role as the titular character in 1935's *Dracula*.



## *ROPE*

Another instance of queer villainy under the Hays Code is Alfred Hitchcock's *Rope* (1948). *Rope* is a thriller about two young men, Brandon and Phillip, who commit what they consider the "perfect murder," through which they intend to prove their intellectual superiority. Brandon, the mastermind of the murder, garnered the notion of murder being a feat committed only by the highest members of the human race from Rupert Cadell, a former professor of his. To flaunt their achievement, they host a dinner party in their apartment, inviting several of the victim's relatives as well as Rupert. Brandon and Phillip are eventually pushed by Rupert to confess to their crime. Rupert admonishes Brandon for having the callousness to not simply believe murder was a feat of intelligence, but to actually carry out the act.

The queer subtext between Brandon and Phillip being lovers is not kept subtle, though their homosexuality was never confirmed in the movie due to the restrictions of the Code. They live together (and are stated to have done so for quite a while) as well as occasionally becoming physical; Brandon suggests that the two of them deserve a holiday after the party. The film also suggests that Brandon and Phillip consider themselves superior to the general population. They are depicted as sociopaths who rationalized murder under the circumstance that the crime was committed as an intellectual feat. Beyond this, the killers' twisted worldview is depicted to be connected to their potential homosexuality; the movie even suggests that Brandon found the act of suffocating their victim arousing. This combined with the sexual undertones of Brandon and Phillip's relationship makes *Rope* a prime example of the Hays Code forcing an association between queerness and villainy.

## THE CODE'S LEGACY

The Hays Code's influence began to waver beginning in the 1960's. In 1968, the PCA officially closed and was replaced with the Code and Rating Administration. By 1952, the MPPDA no longer had legal justification for censoring films after the *Mutual Film v. Ohio* decision was overturned in the case of *Joseph Burstyn, Inc. v. Wilson*. In this case, a filmmaker appealed to the Supreme Court after the state of New York forbade the showing of the short film "The Miracle," which the censor claimed to be sacrilegious. The Supreme Court overturned the *Mutual Film* decision by determining that "motion pictures [are] included within the free speech and free press" guaranteed to other forms of art and media by the First Amendment (*Joseph Burstyn, Inc. v. Wilson*). Now unable to claim that films were a business venture which could legally be censored, the MPPDA could not prevent unapproved films from being shown. The decision to strike down the Code was pushed by such films as *Who's Afraid of Virginia Woolf*, which was not approved by the PCA as it featured vulgar, Code-violating dialogue, but played in theaters regardless. It was quickly becoming evident that the Code was too archaic a method to control the film industry ("Hollywood... Production Code").

Despite the Hays Code no longer being enforced, its legacy has outlived it and can be seen to this day. Under the Hays Code, queer characters were persistently villainized or punished for their existence, and there is still overwhelming evidence of this stereotype in post-Code films.

## QUEER VILLAINS IN HORROR

The genre in which queer villains are perhaps most prevalent is horror. This is seen explicitly as early as the previously discussed *White Zombie* in 1932. 1931's *Dracula* did not

feature any explicitly queer characters, but Bela Lugosi's iconic depiction of Count Dracula shows resemblance to more modern villains recognized to be queer-coded. The original story of Count Dracula, too, can be interpreted as queer. Another 1935 horror film, *Bride of Frankenstein*, carries queer subtext. A sequel to the iconic 1931 film, *Bride of Frankenstein* focuses on the creation of a second, female Monster with the intent of serving as a mate for the original. Henry Frankenstein assists his former mentor, Dr. Pretorius, in the second monster's creation. Pretorius is heavily implied to be homosexual or at least to stand in as a homosexual influence, even seducing Frankenstein away from his heterosexual wedding to instead join him in the unnatural procreation of the second Monster. The Monster's lack of understanding of the intended union between him and his "bride" could also be interpreted as a criticism of the heteronormativity enforced upon Western society.

Later, in 1960, Alfred Hitchcock's *Psycho* hit theaters. *Psycho* was released during the Code's decline and violated several of the rules: for example, it implied sexual intercourse between characters and came close to showing actual nudity. The film's plot revolves around the investigation of a murder at a motel. The killer is revealed to be Norman Bates, the hotel proprietor. Bates had murdered his mother a decade ago and created an alter ego of himself based on her. When Bates became impassioned and murderous toward a woman, his alter ego would take over; he would dress in womens' clothes and wear a wig while committing his murders. While Bates was never suggested to be actually transgender, the suggestion that his gender nonconformity is related to his psychosis and murderous desires does show society's perception of gender nonconformity as a dangerous anomaly.

The trope of queer villains in horror evidently continued past the fall of the Hays Code and became heavily ingrained in the genre as a whole. Queerness is shown to be an anomaly and used as a symbol of a character's immorality. 1975's *The Rocky Horror Picture Show* is a satirical horror/musical movie which features an aggressively queer cast of characters, all of whom are depicted quite negatively (and are also revealed to be aliens from a planet called Transsexual at the conclusion). The villain, Dr. Frank N Furter, is a bisexual crossdressing scientist. Frank is a rapist and a murderer who commits most of his evil deeds as a direct result of his queerness. He is ultimately killed by a comparably heterosexually coded character who states that the world would be better off without Frank in it.

A particularly damning example of characters being villainized for their queerness is 1991's *Silence of the Lambs*. The horror film follows an FBI agent tracking down a serial killer who has been murdering and skinning women. The serial killer is 'Buffalo Bill,' whose real name is Jame Gumb. Bill, who believed they were a transgender woman, had previously tried to receive gender-affirming surgery but was denied due to not being mentally stable enough. Bill took matters into their own hands by murdering cisgender women to make their own "woman suit" out of the victims' skin. The film's director, Jonathon Demme, claimed that "while the serial killer wasn't intended to be trans, Demme had failed to get that point across to audiences"; however, this does not change the fact that Bill's gender dysphoria— whether clinically authentic or not— is used to further the narrative that Bill is insane and should not be trusted (Romano).

## QUEER-CODED VILLAINS

Even if villains are not written to be as explicitly queer as Buffalo Bill, queerness had already become far more deeply ingrained with villainy, to the point where the two have become

almost synonymous. A new stock character was entering the landscape of film: the queer-coded villain. Queer-coded villains are flamboyant and dramatic, with mannerisms and costumes that have more than enough flair to set them far apart from their heterosexually-coded heroic counterparts. The trope has become so popular that many creators of works which include this stock character may not even be aware of the implications of their characters' mannerisms.

These villains are, alarmingly, most popular in childrens' media. One does not have to dig deeply through a catalog of Disney films to find a queer-coded villain. The design of Ursula in *The Little Mermaid* was heavily inspired by drag queen Divine (Zornosa). Compared to the protagonist, Ariel, and her allies, who conform more strictly to traditional gender norms, Ursula is conspicuously different with her extreme gesticulations and elaborate makeup. *The Lion King's* Scar also fits the trope, being effeminate, expressive, and flamboyant in comparison to his hyper-masculine brother and nephew. Scar is depicted to be untrustworthy and callous, killing his own brother in cold blood for his own selfish interest of becoming king. In other childrens' media outside of Disney, the villain HIM from the Powerpuff Girls TV series is an effeminate male demon who wears thigh-high boots and a pink tutu. While the protagonists of the series are cisgendered girls who embrace their femininity as a strength, HIM's feminine traits are ridiculed and villainized.

## MOVING FORWARD

The tight association of stereotypically queer traits with villainy has led to real consequences on society's perception of LGBTQ+ people as a whole. While the Hays Code may have sparked the malicious trope of queer villains, one must still question why, even after the fall of the Code, filmmakers persist in their associations of queer people with villainy. This

regression could be explained (if not justified) by society's infatuation with the status quo.

Heroes in books and films work to defend the natural order of society as it currently is, while villains pose a threat to this. The present state of affairs appears to work for the majority, but is in reality not a perfected version of society in any form. Villains have been wronged by society and want a change. While their methods may be wrong, their intentions hold validity, validity which heroes consistently deny in favor of having the world at the conclusion of the film be identical to the world the film opened on.

In real life, some view queer people as a threat to the natural order of life. Religious conservatives, in particular, still cling to oversimplified pseudo-biology to claim that gender is binary and determined at birth or that true attraction can only exist between a male and a female to label queerness as unnatural and immoral. Humans take comfort in the known; they want security. That which defies one's expectation of how that thing should be is automatically a threat to the human's security. In many ways, queer people defy societal expectations of what a human is. These fears can be seen in human-produced media, and one way that it manifests itself has been in queer villains. The association of queerness with pure evil, weaponized to terrify the viewer and depict the queer character as not just a villain, but a monster, almost too perfectly represents the world's view of queer people and their role in society. Hostile depictions of queer people in media create a circular problem in which the depictions stem from real prejudice, which is then transmitted through the contagious medium of entertainment to transfer the creator's prejudices to the consumers of their work. As such, art imitates life and life imitates art.

The solution to this issue can be found in the foundations of the Hays Code itself. There are two tiers of entertainment: that which "tends to improve the race" and that which tends to

“[lower] the whole living condition and moral ideas of a race” (Motion Picture Production Code). While the men who wrote the Hays Code nearly a century ago may have believed homosexuality to tarnish the moral compass of society, through a more sophisticated modern lens, one can realize the opposite is, in fact, true. The true improvement of humanity entails acceptance and understanding, not hatred, censorship, and hostile laws. To progress as a whole, society must first recognize the mistakes of the past and humanity’s poor treatment of their fellow humans out of a simple lack of understanding, in the stead of permeating malicious stereotypes that serve more to degrade humans. The Hays Code no longer rules the film industry— and for the better. It would be a disservice to society to allow it to continue flexing its power over entertainment that has historically brought humanity together.

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